



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,536	06/10/2005	Wolfgang Rohde	LU 6075 (US)	4252
34872	7590	05/05/2008		
Basell USA Inc. Delaware Corporate Center II 2 Righter Parkway, Suite #300 Wilmington, DE 19803				
EXAMINER				
NGUYEN, CAM N				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
05/05/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,536

Applicant(s)

ROHDE ET AL.

Examiner

Cam N. Nguyen

Art Unit

1793

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/03/08 (an amendment) & 10/30/07 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 10/31/07.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: _____.

DETAILED ACTION

Status of an RCE Application

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after the final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 10/30/07 has been entered.

Response to Amendment

2. The amendment filed on 03/03/08 has been made of record and entered.
There were no changes made to the claims in the amendment.
Claims 1-9 are currently pending in this application for consideration.

Claim Rejections - 35 USC § 102(b)

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by McDaniel (US Pat. 4,301,034).

McDaniel discloses a method of preparing a catalyst comprising: combining a silicate ester and water by slowly adding said ester and said water to a solvent-water-sulfuric acid catalyst mixture which mixture contains said solvent in an amount within the range of 0.1 to 10 volume percent,after the hydrolysis is complete adding an alcohol soluble titanium compound, thereafter adding additional water and holding at an elevated temperature for 1 to 5 hours to permit particle growth, adding a chromium compound soluble in the reaction mixture and thereafter introducing ammonia to bring about gelation, thereafter aging at reflux temperature for 1 to 2 hours, removing the water and solvent and drying the resulting silica (see col. 13- col. 14, claim 42). The solvent is alcohol and suitable alcohol solvents including methanol (see col. 14, claim 46 & col. 2, ln 51). The method further comprising activating the silica resulting after said water and solvent have been separated by heating in air at a temperature within the range of 315 to 760°C (see col. 14, claim 43). Suitable chromium compounds including chromium III nitrate (see col. 5, ln 40). Suitable titanium compounds including titanium tetraisopropoxide (see col. 14, claim 44). See also Example I at col. 7 of the reference, which teaches to use 18 g of water and 107.5 g of 2-butanol (solvent), which provides for about 16% of water, which meets the claimed water content being required in the instant claim 1. See also other Examples in the reference for further details.

There is no patentable distinction seen between the claimed process and that disclosed by McDaniel. Thus, the claims are anticipated by the teaching of the reference.

Response to Applicants' Arguments

4. The remarks filed on 03/03/08 has been fully considered, but not deemed persuasive in view of the new ground of rejection(s) and/or objection(s) above and the following reasons.

Applicants' argument regarding the Schneider et al. (US Pat. 7,019,089 B2) reference is found persuasive, thus the rejection made over this reference in the last office action has been removed.

Citations

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared attached.

Conclusion

6. Claims 1-9 are pending. Claims 1-9 are rejected. No claims are allowed.

Contacts

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

Art Unit: 1793

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Primary Examiner

Art Unit: 1793

/C. N. N./

Primary Examiner, Art Unit 1793

May 02, 2008